

**Summary of the Plenary Group Meeting
Oroville Facilities Relicensing (FERC Project No. 2100)
September 24, 2002**

The Department of Water Resources (DWR) hosted the Plenary Group meeting on September 24, 2002 in Oroville.

A summary of the discussions, decisions made, and action items is provided below. This summary is not intended to be a transcript, analysis of the meeting, or to indicate agreement or disagreement with any of the items summarized, except where expressly stated. The intent is to present an informational summary for interested parties who could not attend the meeting. The following documents are provided:

Attachment 1	Meeting Agenda
Attachment 2	Meeting Attendees
Attachment 3	Flip Chart Notes
Attachment 4	Process Update
Attachment 5	Meeting Abstracts
Attachment 6	Data Management Protocol Presentation
Attachment 7	Gantt Chart Presentation
Attachment 8	Sample Draft Gantt Report
Attachment 9	Operations Modeling Update
Attachment 10	Scoping Process - Development of SD2

Introduction

Attendees were welcomed to the Plenary Group meeting and objectives were discussed. The meeting agenda and list of meeting attendees with their affiliations are appended to this summary as Attachments 1 and 2, respectively. Meeting flip chart notes are included as Attachment 3.

Process Updates

Where We Are in the Process

Len Marino of DWR gave a presentation discussing where we are in the FERC Relicensing Process. His presentation is included as Attachment 4 to this summary. Len informed the Plenary Group that SD1 has been finalized and copies are available at this meeting for distribution. Copies will also be available at the upcoming Work Group meetings or interested parties may request a copy in either binder or CD format from DWR.

Work Group Abstracts

The Facilitator reminded the Plenary Group that abstracts covering the Work Group meetings held since the last Plenary Group meeting are provided with the Plenary Group meeting agenda and full summaries of these meetings are available on the Project web site. The abstracts are provided as Attachment 5 to this summary.

Action Item – August 20, 2002 Meeting Action Items

A summary of the August 20, 2002 Plenary Group meeting is posted on the relicensing web site. The Facilitator reminded participants that no new action items were identified at that meeting however two carryover action items remain from previous Plenary Group meetings to be discussed. The Facilitator reviewed the status of the action items as follows:

Action Item #P99: Data management protocol update
Status: Bill Mendenhall, with DWR updated the Plenary Group on the progress of the data management protocol showing how the Study Plan tasks have been broken into separate data sets, each with an individual profile. He explained how the various work groups would use these to share information. He

informed the Plenary Group that the profiles are available on their intranet site and provided the links necessary to access the information, www.iep.water.ca.gov/oroville-ferc/. The usergroup is 'dmgroup' and the password is 'swht', all lowercase. He also explained that collected data are already being input into the existing IEP database. The data management presentation is included as Attachment 6 to this summary.

Gantt Chart

The Facilitator reminded participants of their request to be periodically updated on Gantt Chart development. Sharif Ebrahim of the consulting team discussed the status of the Gantt Chart and reviewed the goals for the Gantt Chart that include helping with study plan coordination, identifying scheduling changes and resulting impacts, and assisting the collaborative participants in planning for document review and agenda planning. He described a variety of reports that could be generated from the database and added that currently all dates and tasks are being linked. A draft sample report indicating coordination between cultural resources and land use studies was distributed and reviewed. The Gantt Chart presentation and the draft report are included with this summary as Attachments 7 and 8, respectively.

Nan Nalder asked when this tool would be available to everyone. Rick Ramirez with DWR explained that the DWR Resource Area Managers (RAMs) would provide periodic reports to the work groups as needed so the products of the tool are available now but the database itself is rather bulky and may be of limited practical use to all of the participants. Ken Kules requested critical path information be included in the tool and the collaborative agreed that the critical path studies should be easily identified in any reports produced from the database.

Conditionally Approved Study Plan – SP-F9

Steve Ford gave an update on the status of Study Plan SP-F9. The Environmental Work Group met the day after the last Plenary Group meeting and resolved the heartburn issues raised by California Department of Fish and Game (CDFG) but were unable to resolve some of NMFS' heartburn issues. He explained that National Marine Fisheries Services had prepared a draft letter on July 11th outlining additional study issues they would like addressed and that since receipt of that letter, a special technical input group composed of representatives from NMFS, DWR and FERC had met several times to discuss the issues raised. During these meetings and subsequent Environmental Task Force meetings, the collaborative had reviewed the issues raised and made a number of changes to accommodate NMFS' requests. However, not all of the issues were resolved to NMFS' satisfaction so while SP-F9 was approved through consensus at the Environmental Work Group meeting, the approval was not unanimous. NMFS did not approve SP-F9 and requested the remaining issues be submitted for dispute resolution in accordance with the Process Protocols. Steve explained that he felt the compromise study plan would meet the needs of the collaborative and feared further revisions to meet NMFS conditions may result in other stakeholder dissatisfaction and disapproval of the study plan. He added that many of the tasks contained in SP-F9 need to begin immediately and proposed that DWR implement SP-F9 as approved while the dispute resolution process occurs concurrently. Steve reported that the Environmental Work Group agreed to this approach.

Eric Theiss of NMFS stated that proceeding with SP-F9 seems to be the prudent thing to do at this point and acknowledged the effort that has been put into development of this study plan by DWR and the stakeholders to date. He stated that NMFS staff needs to discuss the situation internally and will provide further clarification on their position. He explained that NMFS intends to submit a letter to FERC requesting dispute resolution. Jim Fargo with FERC responded that in FERC's regulations on disputes and the ALP process, FERC expects to be the last resort in these types of situations, after the collaborative has exhausted all other methods of handling the dispute. He added that this particular situation sounds more like a disagreement on studies rather than a

dispute that FERC would get involved with. Ward Tabor noted that approach is consistent with the Process Protocols specifically developed by and for this collaborative and that DWR still needs to understand the specifics of this dispute. Eric Theiss told the Plenary Group that NMFS would put their additional concerns in writing and withdrew his earlier support for initiating SP-F9 tasks as approved by the Environmental Work Group, indicating that the study as written will not provide information useful to NMFS.

The participants discussed the study plan approval process and their understanding of consensus with the Facilitator pointing out that this collaborative agreed early on that consensus does not need to be unanimous, but rather agreed to adopt FERC's definition in its ALP rulemaking as 'the weight of overriding opinion'. Eric Theiss suggested that the decision to approve SP-F9 in the Environmental Work Group was made solely by DWR but others participants who were also present at the Environmental Work Group meeting acknowledged that they had also approved SP-F9. Sharon Stohrer with State Water Resources Control Board attended both meetings and offered that her understanding of the Environmental Work Group meeting action was a consensus approval of SP-F9 with one appropriately recorded dissention and that NMFS would work to resolve their remaining issues using the dispute resolution process.

Patrick Porgans, representing JEM Farms expressed his concern that US Fish and Wildlife Service (FWS) participation has been lacking, reminding the participants that we are still waiting for additional guidance on cumulative analysis. He asked if there is a clear understanding of their position on the unresolved study issues. Cesar Blanco with FWS clarified that FWS had no heartburn with SP-F9 when reviewed at the August Plenary Group meeting but did not attend the last Environmental Work Group meeting. He stated that if NMFS had issues left unresolved, it is FWS' position that NMFS and DWR should work to resolve those issues through the collaborative dispute resolution process. He added that he was fine with SP-F9 commencing now.

The participants discussed how 'voting' occurs, what consensus means and how to proceed with this specific situation and finally agreed that SP-F9 was approved by consensus in the Environmental Work Group. They then reconfirmed the Plenary Group consensus approval with one stakeholder, NMFS, dissenting. They agreed that SP-F9 should proceed as currently revised while NMFS and DWR work to resolve remaining differences over study activities, following the dispute resolution process outlined in the Collaborative's Process Protocols. Sharon Stohrer reminded participants that the environmental study plans all include global language that speaks to the potential for adjustments that may be made to study plans. Participants agreed that solution options might include amending the current language in SP-F9. The Facilitator agreed to update the Plenary Group on progress toward resolution of NMFS' remaining issues at the next Plenary Group meeting.

Steve Ford concluded by explaining that in preparation for implementing one of the tasks included in SP-F9, DWR is currently in the process of hiring staff support in coordination with CDFG for the American River and Yuba River coded wire tag surveys.

Jim Fargo informed the participants that as part of a national review initiated by FERC of alternative licensing processes (ALPs), FERC would be holding public meetings in Sacramento on November 19th and 20th. These meetings, noticed in the Federal Register, are not specific to nor associated with the Oroville Relicensing but rather are two of many meetings planned in several locations across the nation to assist FERC in adjusting their ALP process guidelines if necessary. Jim suggested that if anyone was interested, additional information was available on the FERC web site.

Update on Modeling Efforts

Model Summaries Update & Schedule

Curtis Creel of DWR gave an update on the operations modeling efforts and provided a handout summarizing the status of models that would be used in support of relicensing activities. The handout is provided as Attachment 9 to this summary). Several participants asked if agriculture diversions would be included in the modeling and Curtis responded that temperatures at diversions would be included in both the Afterbay and downstream components of the temperature model. John Ebeling representing Butte County asked if the temperature study plan would be looking at economic effects. Sharon Stohrer explained that the modeling was in support of other studies and didn't include economic analysis and Curtis pointed out that the E&O Work Group study plans are looking at economic effects as they specifically relate to hydropower generation, and other work groups will provide input for the evaluation of appropriate economic issues required for the FERC application. The Facilitator reminded the participants that the Recreation and Socioeconomics Work Group developed two study plans focused on socioeconomics and the project effects, SP-R18 and SP-R19.

Project Operations Update

Due to the lengthy discussion on SP-F9 and to provide time for a brief outline of the Scoping Document 2 process, the participants agreed to postpone the presentation on Project Operations until the next Plenary Group meeting.

Outline Scoping Document 2 Process

Ward Tabor of DWR outlined the Scoping Document 2 (SD2) process. His presentation is included as Attachment 10 to this summary. He explained that the purpose of SD2 is to provide stakeholders with a blueprint for the environmental assessment process and would include sections on Project description, purpose and need, regulatory constraints, and alternatives. The participants discussed development of the alternatives that will be discussed in SD2 and Ward acknowledged that due to the timing of the SD2 release and study results availability, the alternatives would be described qualitatively with little specific detail. The exception would be the No-Action Alternative that will consist of current operations with no changes contemplated. One alternative will be the 'Settlement Alternative' but since details of negotiated PM&E measures will not be available soon enough to be included, the description in SD2 will be general. Jim Fargo explained that scoping documents are part of the NEPA/CEQA regulations to ensure a mechanism for involvement by key stakeholders and agencies in the decision-making process. However, in relicensing they are really artifacts of the traditional process and of less value in an ALP because the ALP collaborative is essentially one long scoping process.

Ward explained that a draft SD2 is planned for release in December 2002 with a final appearing in March followed by a 60-day comment period. Those comments would be used to help develop the environmental document submitted to FERC. Meanwhile, as impacts are identified through the study implementation process the work groups would discuss potential PM&E measures to address those impacts and the collaborative would begin to develop scenarios using various combinations to arrive at alternatives.

Next Steps

The participants agreed that with both a project operations and flood management presentation on the agenda for the next Plenary Group meeting, the meeting will likely need to be longer than four hours. They agreed that the meeting would be an evening meeting that would end at 9 pm and would begin at whatever time is necessary to cover the agenda items. The Facilitator suggested that would likely be around 2 pm.

Next Meeting

The Plenary Group agreed to meet on:

Date: October 22, 2002

Time: start time to be determined – 9:00pm

Location: Kelly Ridge Golf Course meeting room